



Texas Department of Insurance

Division of Workers' Compensation

Medical Fee Dispute Resolution, MS-48

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512-804-4000 telephone • 512-804-4811 fax • www.tdi.texas.gov

MEDICAL FEE DISPUTE RESOLUTION FINDINGS AND DECISION

GENERAL INFORMATION

Requestor Name and Address

RICHARD SEXTON MD
5209 TORTUGA TRAIL
AUSTIN TX 78731

Respondent Name

TEXAS MUTUAL INSURANCE CO

Carrier's Austin Representative Box

54

MFDR Tracking Number

M4-13-0809-01

MFDR Date Received

November 26, 2012

REQUESTOR'S POSITION SUMMARY

Requestor's Position Summary: "I saw Mr. Abshire on 4/12/12 in my capacity as a designated doctor, to address the issues of MMI, impairment, and return to work ability. A bill in the amount of \$1,450 was submitted along with the report by facsimile on 4/22/12.

The bill was denied in its entirety, with the EOR stating "this provider was not certified/eligible to be paid for this procedure/service on this date of service," and "MMI or IR certification is not valid for this date of service." Both of these statements are incorrect, as I have maintained continuous certification as a designated doctor for the TDI since 2007 without any lapses, and performed this examination in conjunction with a Division order, as shown by the enclosed EES-14."

Amount in Dispute: \$1,450.00

RESPONDENT'S POSITION SUMMARY

Respondent's Position Summary: "... The following is the carrier's statement with respect to this dispute of 4/12/12.

The requestor provided designated doctor services to the claimant on the date above then billed Texas Mutual code 99456-W5,W8. Upon receipt of the bill Texas Mutual examined the TXCOMP website to confirm the requestor was approved to perform those designated doctor services on the disputed date. Review of TXCOMP reveals the requestor was not approved on the disputed date to perform those services. (Attachment) For that reason Texas Mutual declined to issue payment and believes no payment is due now."

Response Submitted by:

SUMMARY OF FINDINGS

Dates of Service	Disputed Services	Amount In Dispute	Amount Due
April 12, 2012	CPT Code 99456-W5-WP and 99456-W8-RE	\$1,450.00	\$0.00

FINDINGS AND DECISION

This medical fee dispute is decided pursuant to Texas Labor Code §413.031 and all applicable, adopted rules of the Texas Department of Insurance, Division of Workers' Compensation.

Background

1. 28 Texas Administrative Code §133.307 amended to be effective May 31, 2012, *37 Texas Register* 3833, applicable to medical fee dispute resolution requests filed on or after June 1, 2012, sets out the procedures for resolving a medical fee dispute.
2. 28 Texas Administrative Code §130.1 sets out the guidelines for Certification of Maximum Medical Improvement and Evaluation of Permanent Impairment.
3. 28 Texas Administrative Code §134.204 sets out the guidelines for health care providers to bill for workers' compensation specific services.
4. The services in dispute were reduced/denied by the respondent with the following reason codes:

Explanation of benefits dated May 22, 2012

- CAC-B7 – This provider was not certified/eligible to be paid for this procedure/service on this date of service
- 304 – MMI or certification is not valid for this date of service

Explanation of benefits dated June 27, 2012

- CAC-B7 – This provider was not certified/eligible to be paid for this procedure/service on this date of service
- CAC-193 – Original payment decision is being maintained. Upon review, it was determined that this claim was processed properly
- 304 – MMI or certification is not valid for this date of service
- 724 – No additional payment after a reconsideration of services. For information call 1-800-937-6824

Issues

1. What are the guidelines for a health care provider to certify Maximum Medical Improvement and Evaluation of Permanent Impairment?
2. Does the requestor's documentation support disputed service as billed?
3. Is the requestor entitled to reimbursement?

Findings

1. 28 Texas Administrative Code §130.1 states in pertinent parts, "(a) Authorized Doctor. (1) Only an authorized doctor may certify maximum medical improvement (MMI), determine whether there is permanent impairment, and assign an impairment rating if there is permanent impairment. (A) Doctors serving in the following roles may be authorized as provided in subsection (a)(1)(B) of this section. (i) the treating doctor (or a doctor to whom the treating doctor has referred the injured employee for evaluation of MMI and/or permanent whole body impairment in the place of the treating doctor, in which case the treating doctor is not authorized); ... (B) Prior to September 1, 2003 a doctor serving in one of the roles described in subsection (a)(1)(A) of this subsection is authorized to determine whether an injured employee has permanent impairment, assign an impairment rating, and certify MMI. On or after September 1, 2003, a doctor serving in one of the roles described in subsection (a)(1)(A) of this section is authorized as follows: (i) a doctor whom the commission has certified to assign impairment ratings or otherwise given specific permission by exception to, is authorized to determine whether an injured employee has permanent impairment, assign an impairment rating, and certify MMI; and (ii) a doctor whom the commission has not certified to assign impairment ratings or otherwise given specific permission by exception to is only authorized to determine whether an injured employee has permanent impairment and, in the event that the injured employee has no impairment, certify MMI. (2) Doctors who are not authorized shall not make findings of permanent impairment, certify MMI, or assign impairment ratings and shall not be reimbursed for the examination, certification, or report if one does so. A certification of MMI, finding of permanent impairment, and/or impairment rating assigned by an unauthorized doctor are invalid. If a treating doctor finds that the injured employee has permanent impairment but is not authorized to assign an impairment rating, the doctor is also not authorized to certify MMI and shall refer the injured employee to a doctor who is so authorized.
2. Review of the requestor's documentation finds a copy of the requestor's Report of Medical Evaluation form (DWC 69). Form DWC 69 indicates in Section II (Doctor's Role) box 13 that the doctor performing the exam is the designated doctor. The requestor also checked letter b in Section IV box 17 (Permanent Impairment) certifying that the employee has a permanent impairment as a result of the compensable injury. The amount of permanent impairment is 0%. A note in Box 17 states, "A finding of no impairment is not equivalent to a 0% impairment rating. A doctor can only assign an impairment rating, including a 0% rating, if the doctor performed the examination and testing required by the AMA Guides."

3. A review of the Division's records finds that the health care provider is not authorized by the Division to assign impairment ratings/MMI. Therefore, in accordance with 130.1(a) (2) reimbursement is not recommended.

Conclusion

For the reasons stated above, the Division finds that the requestor has not established that additional reimbursement is due. As a result, the amount ordered is \$0.00.

ORDER

Based upon the documentation submitted by the parties and in accordance with the provisions of Texas Labor Code §413.031, the Division has determined that the requestor is entitled to \$0.00 reimbursement for the disputed services.

Authorized Signature

_____	_____	10/10/13
Signature	Medical Fee Dispute Resolution Officer	Date

YOUR RIGHT TO APPEAL

Either party to this medical fee dispute has a right to seek review of this decision in accordance with 28 Texas Administrative Code §133.307, effective May 31, 2012, 37 *Texas Register* 3833, **applicable to disputes filed on or after June 1, 2012.**

A party seeking review must submit a **Request to Schedule a Benefit Review Conference to Appeal a Medical Fee Dispute Decision** (form **DWC045M**) in accordance with the instructions on the form. The request must be received by the Division within **twenty** days of your receipt of this decision. The request may be faxed, mailed or personally delivered to the Division using the contact information listed on the form or to the field office handling the claim.

The party seeking review of the MDR decision shall deliver a copy of the request to all other parties involved in the dispute at the same time the request is filed with the Division. **Please include a copy of the *Medical Fee Dispute Resolution Findings and Decision*** together with any other required information specified in 28 Texas Administrative Code §141.1(d).

Si prefiere hablar con una persona en español acerca de ésta correspondencia, favor de llamar a 512-804-4812.